

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
“Glide Path” Paper from the State Members	)	
of the Federal-State Joint Board on	)	CC Docket No. 80-286
Separations	)	

**COMMENTS**

GVNW Consulting, Inc. (GVNW) submits these comments in response to the Commission’s notice in the above-captioned proceeding.<sup>1</sup> GVNW is a consulting company providing services to many rural incumbent local exchange carriers that would be directly impacted by changes made to the existing jurisdictional separations procedures. The Glide Path document prepared by the state members of the Separations Joint Board provides a wide spectrum of alternative options for major separations changes that may be considered in the future. We applaud the state members for their efforts on these critical issues. We believe that the requirement of jurisdictional separations is well founded in law and any efforts to change the underlying law will require a considerable amount of time and debate. It is our belief that some of the Glide Path document options could not be implemented without significant legislative changes. As stated, in the Glide Path introduction, the purpose of the document is to do nothing more than “define those issues and to begin and to stimulate the debate...” The Options outlined should be treated as nothing more than a means to “begin and stimulate debate.”

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<sup>1</sup> Public Notice, DA 01-2973 (rel. Dec. 20, 2001).

Most certainly, the act of identifying options should not presuppose a conclusion that significant changes must in fact be made to the separations process as it exists today. As debate is stimulated, all options should be reviewed, including the maintenance of the status quo.

The state members of the Joint Board have reached the conclusion that the historical justification for separations has disappeared<sup>2</sup>. We disagree with that conclusion. While there may be significant pressure, with some justification, for large companies that have adopted price cap regulation to move from the traditional separations, there are many companies still under rate of return regulation. For smaller, rural companies, no plan has been devised and tested that works as well as rate of return regulation, and the separations process is a key component to this regulatory scheme. The issues have, and always will be, complex. However, complexity is not a sufficient reason to look for alternatives. Discussions about the options contained in the Glide Path should not cause us to disregard the continued benefits of separations as presently structured, particularly for small, rural exchange carriers and their customers. The benefits of continued jurisdictional separations should be thoroughly evaluated prior to any decision to modify or eliminate existing jurisdictional separations processes. We would also strongly caution against even establishing tentative future regulatory direction at this time for a number of reasons:

First, the vast majority of the industry's access lines are regulated at the interstate jurisdiction under price cap regulatory treatment. Part 36/69 cost studies are no longer an inherent part of interstate rate making for these companies. The companies whose

revenues are truly impacted by existing separations procedures represent a small portion of the marketplace. Their future viability is dependent on the continued stability of revenue streams that is, in great part, driven by the separations process. The fact that telecommunications pricing is confusing (for both price cap and rate of return companies) is a result of regulatory pricing mandates, not the existence or absence of jurisdictional separations studies.

Rural, rate of return regulated local exchange carriers have built their networks in part based on historic cost separations rules, and the revenues that they can reasonably expect in the future based on those rules. Changes to separations procedures that potentially impact their ability to earn a reasonable return on investments made in the past may raise the issue of confiscation (as noted in the questions raised by the state members paper). Ultimately, uncertainty regarding future recovery will impact future investment decisions. The rural ILEC's ability to fund infrastructure investments, deploy advanced services, or even meet their obligations as Eligible Telecommunications Carriers (ETCs) are important considerations in contemplating changes to the separations process.

The separations factor freeze was established in part to allow time for evaluation of some of the issues that have the potential to impact traditional separations results while providing carriers with stable revenue streams.<sup>3</sup> In its opening paragraph, the Glide Path document states that the five year freeze represents "an opportunity to examine, and redefine if warranted, the jurisdictional division between state and federal authority over

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<sup>2</sup> "Options for Separations," A Paper Prepared by the State Members of the Separations Joint Board, submitted to the FCC December 17, 2001, page 3.

<sup>3</sup> Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, Report and Order, FCC 01-162 (rel. May 22, 2001) (Separations Freeze Order).

telecommunications services.”<sup>4</sup> We have concluded that jurisdictional separations is warranted and necessary for rural rate of return carriers. We believe that for rural companies, the five-year period should be utilized to determine how best to evolve and modify the existing system to more rationally achieve specific goals.

The document expresses dismay that cost separations and pricing policies cause “confusion engendered by multiple charges and surcharges for what, to the customer, seems a single service.”<sup>5</sup> We agree with this concern and encourage efforts to simplify the myriad of charges and surcharges necessary to meet the legal requirement that comparable rates exist and that universal service funding be sufficient, predictable, and specific. We do not believe the separations process is at fault for the confusion, but rather pricing policies that have developed and evolved over time have caused confusing bills to be a fact of life. We share the state members concern that the SLC has become part of the “basic monthly charge.” Under previous separations and pricing regimes, the state controlled the level of “basic monthly charges” and interstate charges were predominantly usage based. While we recognize that the separations process no longer provides this clear pricing distinction, we believe the FCC and the State Commissions must continue to work together to make sure the “basic monthly charges” do not reach a level that will jeopardize universal service.

While the direct tie from cost allocation to access pricing has significantly diminished over the past few years, the tie between interstate revenues and the cost allocation process

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<sup>4</sup> “Options for Separations,” A Paper Prepared by the State Members of the Separations Joint Board, submitted to the FCC December 17, 2001, page 2.

<sup>5</sup> “Options for Separations,” A Paper Prepared by the State Members of the Separations Joint Board, submitted to the FCC December 17, 2001, page 2.

is still very tightly linked. The Universal Service system has proven very effective in providing cost recovery while allowing specific interstate pricing goals to be achieved. Interstate access rates for rural ILECs are only slightly tied to the actual cost of providing services in order that rates are comparable from one service area to another. A substantial portion of the costs experienced by a rural ILEC are recovered from the USF funding mechanisms, whose funding is spread across the entire industry.

Finally, and perhaps most importantly, any elimination of jurisdictional separations may limit the ability to meet statutory obligations to ensure universal service. Additionally, state commissions have the right to structure their own telecommunications regulatory regime to best serve their own specific state needs, and as may be required by state statute. The decision of what regulatory body should ultimately maintain regulatory responsibility in the event jurisdictional separations were eliminated would be extremely complex and controversial, with unproven benefits.

We recommend that the Commission utilize the Glide Path document as intended, simply to stimulate debate. However, primary efforts should be directed at how to improve the jurisdictional separations process, not eliminate it.

Respectfully Submitted,  
GVNW Consulting, Inc.

By: \_\_\_\_\_  
Robert Adkisson  
President

8050 SW Warm Springs Street  
Tualatin, Oregon 97062  
(503) 612-4400  
e-mail kburchett@gvnw.com